

Rule 27. Motions

(a) In General.

(1) **Application for Relief.** An application for an order or other relief is made by motion unless these rules prescribe another form. A motion must be in writing unless the court permits otherwise.

(2) Contents of a Motion.

(A) **Grounds and relief sought.** A motion must state with particularity the grounds for the motion, the relief sought, and the legal argument necessary to support it.

(B) Accompanying documents.

- (i) Any affidavit or other paper necessary to support a motion must be served and filed with the motion.
- (ii) An affidavit must contain only factual information, not legal argument.
- (iii) A motion seeking substantive relief must include a copy of the trial court's opinion or agency's decision as a separate exhibit.

(C) Documents barred or not required.

- (i) A separate brief supporting or responding to a motion must not be filed.
- (ii) A notice of motion is not required.
- (iii) A proposed order is not required.

(3) Response.

(A) **Time to file.** Any party may file a response to a motion; Rule 27(a)(2) governs its contents. The response must be filed within 10 days after service of the motion unless the court shortens or extends the time. A motion authorized by Rules 8, 9, 18, or 41 may be granted before the 10-day period runs only if the court gives reasonable notice to the parties that it intends to act sooner.

(B) **Request for affirmative relief.** A response may include a motion for affirmative relief. The time to respond to the new motion, and to reply to that response, are governed by Rule 27(a)(3)(A) and (a)(4). The title of the response must alert the court to the request for relief.

(4) **Reply to Response.** Any reply to a response must be filed within 7 days after service of the response. A reply must not present matters that do not relate to the response.

(b) **Disposition of a Motion for a Procedural Order.** The court may act on a motion for a procedural order — including a motion under Rule 26(b) — at any time without awaiting a response, and may, by rule or by order in a particular case, authorize its clerk to act on specified types of procedural motions. A party adversely affected by the court's, or the clerk's, action may file a motion to reconsider, vacate, or modify that action. Timely opposition filed after the motion is granted in whole or in part does not constitute a request to reconsider, vacate, or modify the disposition; a motion requesting that relief must be filed.

(c) **Power of a Single Judge to Entertain a Motion.** A circuit judge may act alone on any motion, but may not dismiss or otherwise determine an appeal or other proceeding. A court of appeals may provide by rule or by order in a particular case that only the court may act on any motion or class of motions. The court may review the action of a single judge.

(d) Form of Papers; Page Limits; and Number of Copies.

(1) Format.

(A) **Reproduction.** A motion, response, or reply may be reproduced by any process that yields a clear black image on light paper. The paper must be opaque and unglazed. Only one side of the paper may be used.

(B) **Cover.** A cover is not required, but there must be a caption that includes the case number, the name of the court, the title of the case, and a brief descriptive title indicating the purpose of the motion and identifying the party or parties for whom it is filed. If a cover is used, it must be white.

(C) **Binding.** The document must be bound in any manner that is secure, does not obscure the text, and permits the document to lie reasonably flat when open.

(D) **Paper size, line spacing, and margins.** The document must be on 8½ by 11 inch paper. The text must be double-spaced, but quotations more than two lines long may be indented and single-spaced. Headings and footnotes may be single-spaced. Margins must be at least one inch on all four sides. Page numbers may be placed in the margins, but no text may appear there.

(E) **Typeface and type styles.** The document must comply with the typeface requirements of Rule 32(a)(5) and the type-style requirements of Rule 32(a)(6).

(2) **Page Limits.** A motion or a response to a motion must not exceed 20 pages, exclusive of the corporate disclosure statement and accompanying documents authorized by Rule 27(a)(2)(B), unless the court permits or directs otherwise. A reply to a response must not exceed 10 pages.

(3) **Number of Copies.** An original and 3 copies must be filed unless the court requires a different number by local rule or by order in a particular case.

(e) **Oral Argument.** A motion will be decided without oral argument unless the court orders otherwise.

Local Rule 27(a). Content of Motions; Notification and Consent.

In cases where all parties are represented by counsel, all motions shall contain a statement by counsel that counsel for the other parties to the appeal have been informed of the intended filing of the motion. The statement shall indicate whether the other parties consent to the granting of the motion, or intend to file responses in opposition.

Local Rule 27(b). Procedural Orders Acted on by Clerk; Reconsideration Thereof.

Motions and applications for orders if consented to, or if unopposed after due notice to all interested parties has been given or waived, or if the orders sought are procedural or relate to the preparation or printing of the appendix and briefs on appeal, or are such as are ordinarily granted as of course and without notice or hearing, need not be submitted to the Court, or to a judge thereof. Such orders may be entered for the Court by the clerk, who shall forthwith send copies thereof to the parties.

Any party adversely affected by an order entered by the clerk pursuant to this rule shall be entitled to request reconsideration of the clerk's action by the Court, if within 14 days after entry of the order, such party shall file with the clerk and serve upon the parties to the proceedings a request, in writing, for reconsideration, vacation or modification of the order, stating the grounds for such request. The clerk shall thereupon submit to the Court the request for reconsideration, vacation or modification, the motion or application upon which the order was entered, and any responses by other parties which may have been filed in support or opposition to the request. The Court may thereafter take such action as may be proper.

Local Rule 27(c). Form of Motions.

A Disclosure of Corporate Affiliations statement must accompany the motion unless previously filed with the Court. See FRAP 26.1 and Local Rule 26.1. Counsel should always review carefully the specific rule which authorizes relief to ascertain the requirements, and any motion should contain or be accompanied by any supporting documents required by a specific rule. If a motion is supported by attachments, these materials should also be served and filed with the motion. The parties should not make requests for procedural and substantive relief in a single motion, but should make each request in a separate motion.

Local Rule 27(d). Responses; Replies.

(1) **Responses.** *Although any party may file a response to a motion, a party need not respond to a motion until requested to do so by the Court. The three-day mailing period permitted by FRAP 26(c) does not apply to responses requested by the Court or clerk by letter wherein a response date is set forth in the request. A Disclosure of Corporate Affiliations statement must accompany any response to a motion unless previously filed with the Court. See FRAP 26.1 and Local Rule 26. If the Court acts upon a motion without a response, any party adversely affected by such action may by application to the Court request reconsideration, vacation or modification of the Court's action.*

(2) **Replies.** *The Court will not ordinarily await the filing of a reply before reviewing a motion and response. If movant intends to file a reply and does not want the Court to actively*

consider the motion and response until a reply is filed, movant shall notify the clerk in writing of the intended filing of the reply and request that this Court not act on the motion until the reply is received.

Local Rule 27(e). Panel Assignments and Emergency Motions.

There is a strong presumption that the Court will act, in all but routine procedural matters, through panels or en banc, as prescribed by 28 U.S.C. § 46(c). Ordinarily, counsel shall present all motions to the clerk for presentation to the Court. Application to a single judge should be made only in exceptional circumstances where action by a panel would be impractical due to the requirements of time. In such exceptional circumstances, counsel shall attempt to notify the clerk's office that application is being made directly to a single judge, and copies of all papers presented to the judge shall be presented to the clerk as soon as practical for filing.

When a single judge determines to act, the matter will be referred to a panel as early in the process as is practical. As soon as a matter has been assigned to a panel, any action in the matter will be decided by the panel.

The selection of motion panels is similar to the process set forth in I.O.P. 34.1 for hearing panels. In a case where a request for single judge action is made to the clerk and action by a panel is not feasible, the clerk will assign the matter to a judge selected at random. In cases where a single judge, selected at random, has found it necessary to act, the clerk will fill out the panel with the at-random selection of two additional judges. In cases in which a single judge, selected by counsel, has found it necessary to act, the clerk will assign the matter to a three-judge panel selected at random, which may or may not include the single judge who acted in the case.

Local Rule 27(f). Motions for Summary Disposition.

Motions for summary affirmance, reversal or dismissal are reserved for extraordinary cases only and should not be filed routinely. Counsel contemplating filing a motion to dispose summarily of an appeal should carefully consider whether the issues raised on appeal are in fact manifestly unsubstantial and appropriate for disposition by motion. Motions for summary affirmance or reversal are seldom granted.

Motions for summary disposition should be made only after briefs are filed. If such motions are submitted before the completion of the briefing schedule, the Court will defer action on the motion until the case is mature for full consideration.

Motions to dismiss based upon the ground that the appeal is not within the jurisdiction of the Court or for other procedural grounds may be filed at any time. The Court may also sua sponte summarily dispose of any appeal at any time.

Former Local Rule 27(a) rescinded December 1, 1998.

Former Local Rule 27(b) redesignated Local Rule 27(a) December 1, 1998.

Former Local Rule 27(c) amended and redesignated Local Rule 27(b) December 1, 1998.

Former I.O.P.-27.1 redesignated Local Rule 27(d) December 1, 1995; amended April 1, 2008; amended and redesignated Local Rule 27(c) December 1, 1998; amended December 1, 2009.

Former I.O.P.-27.2, -27.3, and -27.4 amended and redesignated Local Rule 27(e) December 1, 1995; amended and redesignated Local Rule 27(d) December 1, 1998, amended December 1, 2009.

Former I.O.P.-27.5 amended and redesignated Local Rule 27(f) December 1, 1995; amended and redesignated Local Rule 27(e) December 1, 1998; amended February 1, 2001.

Former I.O.P.-27.6 redesignated Local Rule 27(g) December 1, 1995; redesignated Local Rule 27(f) December 1, 1998.